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7 Attorneys for Defendant
8 Allstate Insurance Company

9 **IN THE UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11
12 PAUL BLACK,

13 Plaintiff,

14 v.

15 ALLSTATE INSURANCE COMPANY,

16 Defendant.

Case No.

**DEFENDANT'S NOTICE OF
REMOVAL OF CIVIL ACTION
UNDER 28 U.S.C. §§ 1332, 1441
(DIVERSITY)**

(Maricopa County Superior Court
Case No. CV2017-014429)

17
18 **TO: CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
19 **DISTRICT OF ARIZONA**

20 PLEASE TAKE NOTICE that Allstate Insurance Company ("Defendant"), hereby
21 removes the above-entitled action from the Superior Court of the State of Arizona, County of
22 Maricopa, to the United States District Court for the District of Arizona. Defendant makes
23 the removal because this Court has original jurisdiction under 28 U.S.C. § 1332 and the
24 action is removable under 28 U.S.C. §§ 1441(b), 1446, and Local Rule of Civil Procedure
25 3.6.

26 In support of this Notice of Removal, Defendant states the following:

27 1. On November 8, 2017, Plaintiff Paul Black ("Plaintiff") filed a Complaint in
28 the Maricopa County Superior Court, entitled *Paul Black v. Allstate Insurance Company*,

1 Case No. CV2017-014429 (the “State Court Action”). The Complaint alleges two causes of
2 action under Arizona state law: (1) failure to pay wages, and (2) breach of contract.

3 2. On December 6, 2017, Defendant’s statutory agent was served by process
4 server the Summons and Complaint. On December 22, 2017, Defendant filed a Stipulated
5 Motion and proposed order requesting an extension to and through January 12, 2018, to file
6 its response to the Complaint. A true and correct copy of all process, pleadings, and orders
7 in the State Court Action are being filed with this Notice as required by 28 U.S.C. § 1446(a)
8 and are attached as **Exhibit 1**.

9 3. Accordingly, Defendant has filed this Notice of Removal within 30 days after
10 service of the initial pleading setting forth a removable claim and it is timely filed under
11 28 U.S.C. § 1446(b).

12 4. This Court has original jurisdiction over the action under 28 U.S.C. § 1332
13 and removal jurisdiction under 28 U.S.C. § 1441(b) because it is a civil action between
14 citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of
15 interest and costs. Defendant is now, and was at the time this action commenced, diverse in
16 citizenship from Plaintiff.

17 5. Specifically, Plaintiff is presently domiciled in Maricopa County, Arizona and
18 was domiciled there at the time this action commenced. Plaintiff was at that time, and is
19 now, a citizen of the State of Arizona. Defendant is not, nor was at the time the suit
20 commenced, a citizen of the State of Arizona. Defendant is presently a citizen of the States
21 of Delaware and Illinois and was a citizen of the States of Delaware and Illinois at the time
22 this action commenced. Specifically, Defendant is a corporation that is incorporated under
23 the laws of the State of Delaware and whose principal place of business is in the State of
24 Illinois. Therefore, Plaintiff is diverse in citizenship from Defendant.

25 6. Defendant need only establish that the amount in controversy exceeds \$75,000
26 by a preponderance of the evidence, that is, that it is more likely than not that the amount in
27 controversy exceeds \$75,000. *See Dart Cherokee Basin Operating Co. v. Owens*, 135 S. Ct.

1 547, 551 (2014); *Singer v. State Farm Mut. Auto Ins. Co.*, 116 F.3d 373, 376 (9th Cir. 1997);
2 *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).

3 7. Plaintiff is seeking wages in the form of a final sign-on bonus installment, in
4 the amount of \$35,000 which he seeks to have trebled pursuant to A.R.S. §23-355, as well
5 as attorneys' fees, expenses, costs, pre- and post-judgment interest. *See Complaint*, ¶¶ 1,
6 15, 24 and prayer for relief. Based on the allegations in Plaintiff's Complaint, the amount in
7 controversy far exceeds \$75,000. Specifically, the \$35,000 amount that Plaintiff seeks to
8 have trebled under A.R.S. §23-355 is \$105,000. Plaintiff also seeks attorneys' fees under
9 A.R.S. §12-341.01. When a statute authorizes an award of penalties or attorneys' fees to a
10 plaintiff, courts consider those potential recoveries for purposes of calculating the amount in
11 controversy. *See, e.g., Chabner v. United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1046 n.3
12 (9th Cir. 2000); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1156 (9th Cir.1998).
13 Accordingly, the amount in controversy in this case meets the jurisdictional requirement.

14 8. Under 28 U.S.C. § 1441(b), venue of the removed action is proper in this
15 Court as the district and division embracing the place where the State Action is pending.

16 9. The Notice to Adverse Parties of Removal to Federal Court was filed in state
17 court and served simultaneously herewith, in accordance with 28 U.S.C. §1446(d), and a
18 copy is attached as **Exhibit 2**.

19 10. The Notice to State Court of Removal of Civil Action to Federal Court was
20 filed in state court and served simultaneously herewith, in accordance with 28 U.S.C.
21 § 1446(d), and a copy is attached as **Exhibit 3**.

1 RESPECTFULLY SUBMITTED this 5th day of January, 2018

2
3 s/ R. Shawn Oller

4 R. Shawn Oller
5 Peter C. Prynkiewicz
6 LITTLER MENDELSON, P.C.
7 Attorneys for Defendant
Allstate Insurance Company

8 I hereby certify that I electronically
9 transmitted the attached document to the
10 Clerk's Office using the CM/ECF
11 System for filing and transmittal of a
12 Notice of Electronic Filing to the
following CM/ECF registrants, and
mailed a copy of same to the following if
non-registrants, this 5th day of January,
2018 to:

13 Trey Dayes
14 Sean C. Davis
15 Preston K. Flood
16 PHILLIPS DAYES LAW FIRM
3101 North Central Avenue, Suite 1100
Phoenix, Arizona 85012

17 s/ Danielle Lohman

18 Firmwide:152067001.1 074093.1029
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